

1 BARBARA J. PARKER, City Attorney - SBN 069722  
OTIS McGEE, Jr., Chief Assistant City Attorney - SBN. 7188  
2 COLIN BOWEN, Supervising Trial Attorney – SBN 152489  
MICHELLE M. MEYERS, Deputy City Attorney – SBN 236387  
3 One Frank H. Ogawa Plaza, 6th Floor  
Oakland, California 94612  
4 Phone: (510) 238-6392, Fax: (510) 238-6500  
X04163/1927207

5 Attorneys for Defendant  
6 CITY OF OAKLAND

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 BUILDING INDUSTRY ASSOCIATION OF  
12 THE BAY AREA,

13 Plaintiffs,

14 v.

15 CITY OF OAKLAND,

16 Defendants.

Case No. CV-15-3392 TEH

**STIPULATION AND [PROPOSED]  
ORDER VACATING ORDER FOR  
PRETRIAL PREPARATION**

17  
18 Plaintiff BUILDING INDUSTRY ASSOCIATION OF THE BAY AREA (“BIA Bay Area”)  
19 and the Defendant CITY OF OAKLAND (“City”) hereby stipulate by and through their  
20 undersigned attorneys of record as follows:

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 This matter arises from the BIA Bay Area's constitutional challenge to the City's  
 2 Public Art Requirement Ordinance ("Ordinance"), Oakland Municipal Code Section  
 3 15.70.010 *et. seq.* Plaintiff contends that the Ordinance facially violates the First and Fifth  
 4 Amendments to the U.S. Constitution, as applied to the City by the Fourteenth Amendment.

5 The City intends to amend the current Ordinance which consistent with section 3,  
 6 entitled "Reevaluation" of Ordinance 13275. City Council has preliminarily authorized the  
 7 amendment of the Ordinance. The City anticipates it will present an amended Ordinance to  
 8 the City Council for its approval by or before December of 2016. The City has requested  
 9 BIA Bay Area's input regarding the amendments to the Ordinance.

10 The parties have not filed dispositive motions. The Court's Order for Pretrial  
 11 Preparation identifies the following dates:

- 12 • Court Trial: September 27, 2016;
- 13 • Pretrial Conference: September 12, 2016; and
- 14 • Hearings on Pre-Trial Motions: August 8, 2016 and the Motions must be filed  
 15 by July 4, 2016.
- 16 • Discovery cut-off: June 13, 2006

17 The parties collectively request the Court vacate the above-referenced dates and  
 18 stay the action to October of 2016. The parties request that the Court order a status  
 19 conference in October of 2016 wherein the parties will brief the Court as to the status of the  
 20 amendments to the Ordinance and the status of the litigation. The parties anticipate that if  
 21 mutually satisfactory progress toward revision of the Ordinance, including the application of  
 22 the existing Ordinance, is being made at the time of the October status conference, that  
 23 they will further stipulate to and request of the Court an additional stay until December of  
 24 2016 as necessary to complete the revision.

25 The parties stipulate and submit that good cause exists to modify the Order for  
 26 Pretrial Preparation as indicated above, in that it would be an inefficient use of the parties'

1 and the Court's resources to continue litigation while the City is in the process of amending  
2 the Ordinance.

3 Judicial economy is best served by vacating the trial date to allow the City the  
4 opportunity to amend the Ordinance.

5  
6 Respectfully submitted,

7 Dated: July 1, 2016

PACIFIC LEGAL FOUNDATION

8 /s/

9 By J. David Breemer  
10 Anthony L. Francois  
11 Attorneys for Plaintiff  
BUILDING INDUSTRIES ASSOCIATION

12  
13 Dated: July 1, 2016

14 BARBARA J. PARKER, City Attorney  
15 OTIS McGEE, Jr., Chief Assistant City Attorney  
16 COLIN BOWEN, Supervising Trial Attorney  
MICHELLE M. MEYERS, Deputy City Attorney

17 /s/

18 By: \_\_\_\_\_  
19 Attorneys for Defendant  
20 CITY OF OAKLAND

21 **ORDER**

22 GOOD CAUSE BEING SHOWN, the trial scheduled for September 27, 2016 and  
23 all corresponding dates are vacated. The parties shall return for a status conference on  
24 \_\_\_\_\_.

25 Dated: \_\_\_\_\_

26 \_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE